

CITY OF NEWARK
DELAWARE

PLANNING AND DEVELOPMENT DEPARTMENT REPORT

June 27, 2023

ZONING AND COMPREHENSIVE DEVELOPMENT PLAN AMENDMENTS: AMENDING THE MI DISTRICT (GENERAL INDUSTRIAL) and MOR DISTRICT (MANUFACTURING OFFICE RESEARCH), AND TEXT AMENDMENT TO THE COMPREHENSIVE DEVELOPMENT PLAN V 2.0, TO PERMIT INSTITUTIONAL USES SUCH AS PUBLIC AND PRIVATE SCHOOLS, CHURCHES, FIRE AND POLICE STATIONS WITH A COUNCIL APPROVED SPECIAL USE PERMIT.

The Planning and Development Department has prepared the following report to amend *Chapter 32 – Zoning*, Section 32-21, MI Zoning District (general industrial), Section 32-23, MOR Zoning District (Manufacturing Office Research), and Chapter 10 of the Comprehensive Development Plan V 2.0, to include institutional uses such as public and private schools, churches, as well as fire and police stations, with a Council approved special use permit. The report gives a brief background, reviews current conditions, and provides a recommendation on an ordinance.

Current Zoning

Under the City of Newark Zoning Code, institutional uses, such as schools, churches, or fire and police stations, are not currently permitted in either MI or MOR zoning districts.

Schools: *“public and private elementary, junior, and senior high schools”* are currently permitted, as a by-right use, in all single-family and multi-family residential zones (RH, RT, RS, RD, RM, RA, RR) and in two business zones (BL, BLR)

Churches: *“Churches or other place of worship, seminary or convent, parish house, or Sunday school building, and provided, however, that no lot less than 12,500 square feet shall be used for such purposes”* is currently permitted, as a by-right use, in all single-family and multi-family residential zones (RH, RT, RS, RD, RM, RA, RR) and one business district (BL) without the minimum lot size requirement as in residential.

“Churches or other place of worship, seminary or convent, parish house, or Sunday school building” are currently permitted with a Council-approved special use permit in all other business zoning districts (BLR, BN, BB, and BC).

Fire and Police Station: *“Police and fire stations”* are permitted in all non-industrial zoning districts with a Council-approved special use permit. Three zoning districts do not permit *“Police and Fire Stations”*: MI, MOR, and STC (Science and Technology Campus).

Comprehensive Development Plan V 2.0

Chapter 10, Table 10-2: Zoning Districts, on page 137, provides a description for each zoning district. The zoning districts for MI and MOR are as follows:

Industrial Districts	
MI General Industrial	All permitted uses under ML. Subsidiary retail sales, oil storage, railroads/freight yard, public transit facilities, accessory uses.
MOR Manufacturing Office Research	All permitted uses under MI. Offices for professional services, utilities, retail and specialty retail, commercial indoor recreation, and accessory uses.

Background

As noted in previous amendments to the MI and MOR zoning districts, industry and manufacturing in the City of Newark, and the country at-large, has continued to evolve, and are following a trend of downsizing and transitioning from strict industrial development to more mixed-use development. While industrial parks still include manufacturing uses, they are also including uses such as warehousing/storage, offices for professional services, breweries, and indoor recreation.

The proposed amendments were developed at the request of the Planning Commission. Specifically, it was suggested by members of the Planning Commission that the City consider adopting amendments similar to existing New Castle County zoning requirements, that would permit institutional uses such as schools and churches in Industrial zones rather than consider a zoning change to the property. Thus, if there is a future change of use, the land remains zoned for industrial uses.

Methodology

To add institutional uses such as schools, churches, as well as police and fire stations to the MI and MOR zoning districts, the Planning and Development Department suggests the following amendments to the City of Newark Zoning Code: (Added text is in underlined. Deleted text in ~~strikethrough~~)

Add to Section 32-21.- Uses permitted in MI districts (general industrial) under part (b) to require a special use permit:

“(7) Instructional, business, or trade school.

a. ~~Such uses are permitted only in non K-12 schools, that give instruction in a vocational trade subject.~~

(8) Public and private elementary, junior, and senior high schools.

(9) Church or other place of worship, seminary or convent, parish house, or Sunday school building.

(10) Police and fire station.”

86 Add to **Section 32-23.- Uses permitted in MOR districts (manufacturing office research)** under part
87 (b) to require a special use permit:

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89 “(5) Public and private elementary, junior, and senior high schools.

90 (6) Church or other place of worship, seminary or convent, parish house, or Sunday school
91 building.

92 (7) Police and fire station.

93 (8) Instructional, business, or trade schools.”

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95 To amend the zoning descriptions in *Chapter 10, Table 10-2: Zoning Districts* of the Comprehensive
96 Development Plan V 2.0, the Planning and Development Department suggests the following:
97 (Added text is in underlined. Deleted text in ~~strikethrough~~)

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Industrial Districts	
MI General Industrial	All permitted uses under MI. <u>Process involving cleaning, distribution, manufacture, production, warehousing, or testing.</u> Subsidiary retail sales, oil storage, railroads/freight yard, public transit facilities, accessory uses, active recreation, accessory uses, variety of institutional uses.
MOR Manufacturing Office Research	All permitted uses under MI. Offices for professional services, utilities, retail and specialty retail, commercial indoor recreation, accessory uses, <u>and variety of institutional uses.</u>

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101 **Department Comments**

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103 1. The Planning and Development Department notes that currently, if a school, church, or fire
104 station desired to locate to a parcel currently zoned MI or MOR, the applicant would be
105 required to apply to the City – through Planning Commission and City Council review - to
106 change the zoning to a district that permits the proposed use. In the case of the Newark
107 Charter School (both the Elementary/Junior and Senior High Schools), for example, the MI
108 zoned parcels were changed to residential (RH – Single-family residential – Half Acre
109 Minimal). However, if the Newark Charter School was to ever relocate, the property now
110 zoned for low density residential may not be the most appropriate zoning for that area for
111 future uses. Thus, by permitting these types of uses in the industrial zones it prevents the
112 need to rezone the property again if the use changes, and it preserves the industrial zoning.

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114 2. The Planning and Development Department notes that the criteria, standards, and
115 regulations dealing with school site selection, site planning, and construction are under the
116 authority of the Department of Education of sites and plan development in 14 Del. Code
117 §§121, 122, 2002 and 29 Del. Code §§7509-7511, 7518. The Department of Education has a
118 Technical Assistance Manual for the development of new schools:

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120 [https://www.doe.k12.de.us/cms/lib/DE01922744/Centricity/Domain/511/Technical%20As](https://www.doe.k12.de.us/cms/lib/DE01922744/Centricity/Domain/511/Technical%20Assistance%20Manual%20FINAL%207-18-17.pdf)
121 [sistance%20Manual%20FINAL%207-18-17.pdf](https://www.doe.k12.de.us/cms/lib/DE01922744/Centricity/Domain/511/Technical%20Assistance%20Manual%20FINAL%207-18-17.pdf)

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Considering the extensive existing regulations around the development of new schools and the opportunity for Council review and public input for all of these proposed uses through the special use permit process, the Department does not recommend that additional requirements be included.

3. While institutional uses such as schools, churches, and fire stations may often be appropriately located in areas currently zoned MOR and MI, there are instances where the institutional use may not be fully compatible with the surrounding area and uses. Therefore, the Planning and Development Department recommends that the uses be permitted as a conditional use, requiring a Council-approved special use permit, so that the community and Council can fully vet any proposed project. Also note, per **Section 32-78.(a)(4)**, special use permits for properties larger than one (1) acre in size will be referred, first, to the Planning Commission for recommendations to Council. Since there is no suggested minimum lot size below ten (10) acres in the Department of Education Technical Assistance Manual, it is likely that all school proposals would come before the Planning Commission.
4. The text amendment to Table 10-2 on page 137 of the Comprehensive Development Plan V 2.0 is to update the description of the industrial zoning districts as proposed.
5. Because "Instructional, business, or trade schools" is a similar use and already existed in the MI zoning district, the Planning and Development Department is suggesting that the use also be included in the MOR zoning district. The text the MI zoning district, that already included this MI amendment adopted by Council on October 14, 2019, as altered to match the proposed new amendment for MOR. Specifically, a comma was inserted between "Instructional" and "Business" and "...and Trade..", as well as the deletion of the subsection "a." which was determined by the Planning and Development Department to be unnecessary.
6. The reference to ML in the MI definition in *Chapter 10, Table 10-2: Zoning Districts* of the Comprehensive Development Plan V 2.0 has been recommended for deletion since there is no longer an ML zoning in Chapter 32.

Recommendation

The Planning and Development Department suggests that Planning Commission recommend that City Council amend Chapter, 32, Zoning, Article VII and Article VII-A, **Section 32-21. MI district** and **Section 21-23.- MOR district** by adding the following text (Added text is in underlined. Deleted text in ~~strikethrough~~) :

Add to Section 32-21.-Uses permitted in MI districts (general industrial) under part (b) to require a special use permit:

"(7) Instructional, business, or trade school.

~~a. Such uses are permitted only in non K-12 schools, that give instruction in a vocational~~

167 ~~trade subject.~~
 168 (8) Public and private elementary, junior, and senior high schools.
 169 (9) Church or other place of worship, seminary or convent, parish house, or Sunday school
 170 building.
 171 (10) Police and fire station."

172
 173 **Add to Section 32-23.-Uses permitted in MOR districts (manufacturing office research) under part**
 174 **(b) to require a special use permit:**

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 176 "(5) Public and private elementary, junior, and senior high schools.
 177 (6) Church or other place of worship, seminary or convent, parish house, or Sunday school
 178 building.
 179 (7) Police and fire station.
 180 (8) Instructional, business, or trade schools."

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 182
 183 **Add to Chapter 10, Table 10-2: Zoning Districts of the Comprehensive Development Plan V 2.0, the**
 184 **Planning and Development Department suggests the following: (Added text is in underlined.**
 185 **Deleted text in ~~strikethrough~~.)**

Industrial Districts	
MI General Industrial	All permitted uses under ML. Process involving cleaning, distribution, manufacture, production, warehousing, or testing. Subsidiary retail sales, oil storage, railroads/freight yard, public transit facilities, accessory uses, <u>active recreation, accessory uses, variety of institutional uses.</u>
MOR Manufacturing Office Research	All permitted uses under MI. Offices for professional services, utilities, retail and specialty retail, commercial indoor recreation, accessory uses, <u>and variety of institutional uses.</u>

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 189 **Exhibit "A": City of Newark Map showing the MOR and MI zoning districts.**
 190 **Exhibit "B": Proposed Comprehensive Development Plan V 2.0, page 137, as amended.**

Exhibit "A"

Zoning Map of Existing MOR and MI Zoning Districts in Newark

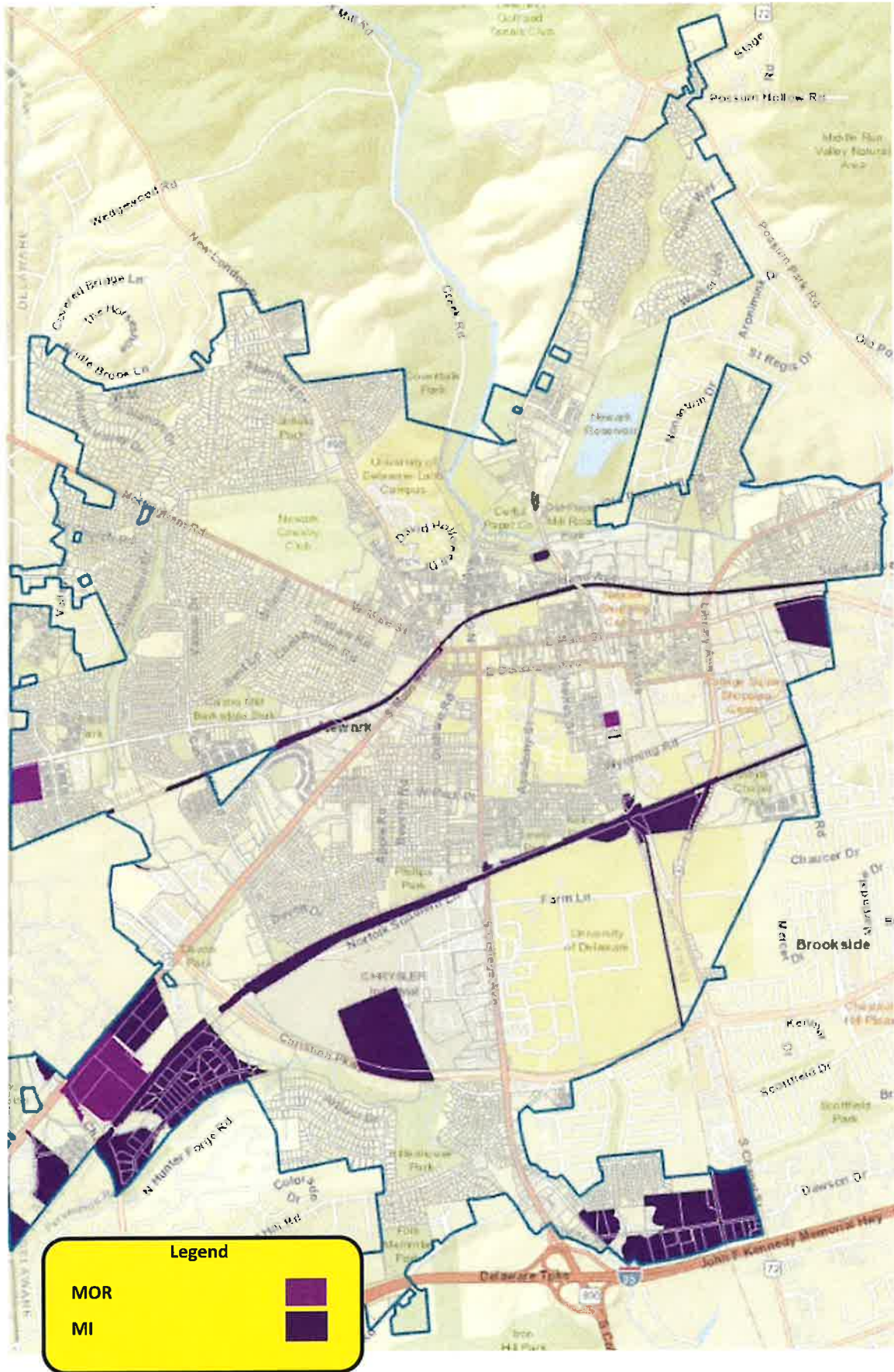


EXHIBIT "B"

COMPREHENSIVE DEVELOPMENT PLAN V 2.0

BL Business Limited	Office for professional service, financial institutions, undertakers, barbershops and beauty parlors; variety of institutional uses; parkland and open space; accessory uses.
ZONING DISTRICT	DESCRIPTION
Business Districts	
BLR Business Limited-Residential	All permitted uses under BL. Apartments are permitted with any nonresidential use permitted in district.
Industrial Districts	
MI General Industrial	<u>Process involving cleaning, distribution, manufacture, production, warehousing, or testing.</u> Subsidiary retail sales, oil storage, railroads/freight yard, public transit facilities, accessory uses, <u>active recreation, accessory uses, variety of institutional uses.</u>
MOR Manufacturing Office Research	All permitted uses under MI. Offices for professional services, utilities, retail and specialty retail, commercial indoor recreation, accessory uses, <u>and variety of institutional uses.</u>
University District	
UN University or College	State college or university, accessory uses customarily incidental to a college or university. UN zoning is only for university owned properties.
STC Science and Technology Campus	Process involving cleaning, distribution, manufacture, production, warehousing, testing, laboratories, hospitals and medical clinics, offices for professional services, technology-dependent or computer-based facilities, day care centers, restaurants, recreation facilities, hotels/motels with conference facilities, public transportation facilities, accessory uses and accessory buildings, residential uses, retail, restaurants, commercial indoor recreation and indoor theaters. STC zoning is limited to the STAR Campus
Parkland/Open Space	
PL Parkland	Park, conservation area, bikeway, trail, athletic field, recreation building, accessory uses, open space.
SFHA Special Flood Hazard Area	The land in the floodplain subject flood hazards and shown on a Flood Insurance Rate Map, having a one percent chance of being equaled or exceeded in any given year the base flood elevation, also is referred to as the 100-year flood (or the 1%-annual-chance flood).

Land Use and Zoning Link

The link between the future land use and zoning is important. Title 22, Section 702(c) of the Delaware Code states that the comprehensive development plan is "the basis for the development of zoning regulations" and requires that the City "within 18 months of the adoption of a comprehensive development plan or revision thereof, amend its official zoning map to rezone all lands within the municipality in accordance with the uses of land provided for in the comprehensive development plan." Once a comprehensive plan is adopted by a municipality, it shall have the "force of law and no development shall be permitted except as consistent with the plan."